

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
RS FIT NW LLC,)	
)	Case No. 20-11568 (KBO)
Debtor.)	
)	(Jointly Administered)
)	
<hr style="border: 0.5px solid black;"/>		
24 HOUR FITNESS WORLDWIDE, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
CONTINENTAL CASUALTY COMPANY;)	Adv. Pro. No. 20-51051 (KBO)
ENDURANCE AMERICAN SPECIALTY)	
INSURANCE COMPANY; STARR SURPLUS)	
LINES INSURANCE COMPANY; ALLIANZ)	
GLOBAL RISKS US INSURANCE COMPANY;)	
LIBERTY MUTUAL INSURANCE COMPANY;)	
BEAZLEY-LLOYD'S SYNDICATES 2623/623;)	
ALLIED WORLD NATIONAL ASSURANCE)	
COMPANY; QBE SPECIALTY INSURANCE)	
COMPANY; and GENERAL SECURITY)	
INDEMNITY COMPANY OF ARIZONA,)	
)	
Defendants.)	
)	
<hr style="border: 0.5px solid black;"/>		

**PROPERTY INSURER DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND
INCORPORATED MEMORANDUM OF LAW**

EXHIBIT A-23

*Excerpts from the Deposition of Tony Ueber
(7/27/2022)*

1 letter on March 15th, we felt like these
2 actions were the appropriate actions to
3 take, given the information that we had in
4 order to ensure the safety of our members
5 and team members from COVID, which was --
6 you know, we were getting more and more
7 information hourly at this point on the
8 spread and how many people were infected
9 and where people were that were infected
10 across all the different geographies that
11 we did business within.

12 So, yes, at this point, we felt like
13 these actions would enable us to be able
14 to keep the clubs open, follow the
15 guidelines that were being, you know --
16 that were being offered by public health
17 officials, and be able to keep the clubs
18 open for people and for our team members.

19 BY MR. DENN:

20 Q. In terms of my question, did you -- did you
21 assume that COVID-19 was present in -- in each and
22 every one of the clubs?

23 A. I think we had to assume that it certainly
24 could have been present in all of the clubs at that
25 point.

1 Q. Did you assume that it, in fact, was present?

2 A. Well, we assumed that it was because we took
3 these actions to be able to mitigate any spread if
4 it was present in the clubs.

5 Q. Do you recall on what date you began to
6 assume that it was present in all the clubs?

7 MR. WEISS: Objection to form.

8 THE WITNESS: I think -- yeah. I
9 mean, I think -- this was a Sunday, the
10 15th. And I think as -- and then at this
11 point, we felt like -- you know, we felt
12 like it was still possible to be able to
13 mitigate -- you know, mitigate the spread.
14 So if somebody did have COVID, but they
15 were masked, they were dis- -- you know,
16 6 feet of social distancing, we were
17 disinfecting the clubs. We had touch-free
18 check-in. You know, I think at this
19 point, I can't recall whether we had
20 plastic partitions put up at the front
21 desk or not, just like a lot of other
22 businesses were doing at this point this
23 time.

24 So we felt that these actions would
25 allow us to keep the clubs open and have a

TONY UEBER
July 27, 2022

CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence, and objections are contained fully and accurately in the stenographic notes taken by me upon the deposition of TONY UEBER taken on JULY 27, 2022, and that this is a true and correct transcript of same.

I FURTHER CERTIFY that I am neither attorney nor counsel for, not related to nor employed by any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



Michelle Keys
Stenographer
and Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)